

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/720,025 Confirmation No. 3169
Applicant : Chaikof et al.
Filed : Nov. 21, 2003
TC/A.U. : 1656
Examiner : Noakes, Suzanne Marie
For : Plastic and Elastic Protein Copolymers
Docket No. : 133-02
Customer No.: 23713

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF EFS-WEB FILING

I hereby certify that this correspondence is being submitted with the USPTO EFS-WEB system on the date indicated below.

February 5, 2009

Date

/ronaldfriedland/

Ronald Friedland

DECLARATION UNDER 37 CFR 1.132 BY:

**VINCENT P. CONTICELLO;
ROBERT A. MCMILLAN; AND
ELIZABETH R. WRIGHT**

Sir:

We, Vincent P. Conticello, Robert A. McMillan and Elizabeth R. Wright, hereby declare as follows:

1. That we, along with Elliot L. Chaikof, Karthik Nagapudi, William T. Brinkman, Sonha C. Payne, are coinventors of U.S. Patent Application No. 10/720,025 for "Plastic and Elastic Protein Copolymers", filed on November 21, 2003.
2. Vincent P. Conticello is currently a Professor of Chemistry in the Department of Chemistry at Emory University.

3. Robert A. McMillan is currently a Principal at 5AM Ventures, 3000 Sand Hill Road, 4-230, Menlo Park, CA 94025.
4. Elizabeth R. Wright is currently the Director of the Robert P. Apkarian Integrated Electron Microscopy Core and an Assistant Professor of Pediatrics in the School of Medicine at Emory University.
5. We have read the rejections of the claims in the Office Action of August 14, 2008 for U.S. Patent Application No. 10/720,025 and understand the following reference has been cited as a basis of prior art rejections under 35 U.S.C. 102(a): Wright et al., Adv. Funct. Materials, Feb 2002, 12:149-54 (the "Wright et al. reference").
6. Vincent P. Conticello, Robert A. McMillan and Elizabeth R. Wright are coauthors of the Wright et al. reference together with coauthors Alan Cooper and Robert P. Apkarian.
7. That at the time the research was carried out that led to the Wright et al. reference, Vincent P. Conticello was the principal investigator for this work and was a Professor in the Department of Chemistry at Emory University. Vincent P. Conticello had extensive experience in the technical field of biomaterials and was the leader of a research laboratory in the area of biological polymer synthesis based on protein polymers at the time the research was carried out that led to the Wright et al. reference.
8. That at the time the research was carried out that led to the Wright et al. reference, Robert A. McMillan was a Doctoral Candidate in the Department of Chemistry at Emory University, and had extensive experience in the technical field of biomaterial synthesis and characterization.
9. That at the time the research was carried out that led to the Wright et al. reference, Elizabeth R. Wright was a Doctoral Candidate in the Department of Chemistry at Emory University, and had extensive experience in the technical field of biomaterial synthesis and characterization.

10. That Vincent P. Conticello, Robert A. McMillan and Elizabeth R. Wright along with Elliot L. Chaikof, Karthik Nagapudi, William T. Brinkman, Sonha C. Payne have been collaborating in the development and reduction to practice of synthetic protein copolymers as presented in the pending claims of the above-referenced U.S. Patent Application No. 10/720,025.
11. That at the time the research was carried out that led to the Wright et al. reference Alan Cooper was a Professor in the Chemistry Department at the University of Glasgow.
12. That at the time the research was carried out that led to the Wright et al. reference Robert P. Apkarian was a Director in the Integrated Microscopy & Microanalytical Facility at Emory University.
13. That only co-authors Vincent P. Conticello, Robert A. McMillan and Elizabeth R. Wright, along with co-inventors Elliot L. Chaikof, Karthik Nagapudi, William T. Brinkman, Sonha C. Payne, made original and inventive contributions to the invention as claimed in U.S. Patent Application No. 10/720,025 and in the subject matter disclosed in the Wright et al. reference cited by the Patent and Trademark Office in the Office Action of August 14, 2008 in support of the pending rejections on the basis of anticipation.
14. That the coauthor, Alan Cooper, made technical contributions related to sample analysis wherein the samples were provided by Conticello, McMillan and Wright and Alan Cooper did not make any original and inventive contributions to the polymer materials related to the disclosure in the Wright et al. reference and is not an inventor of the subject matter claimed in U.S. Patent Application No. 10/720,025.
15. That the coauthor, Robert P. Apkarian, made technical contributions related to the imaging of materials and did not make any original and inventive contributions to the polymer materials related to the disclosure in the Wright et al. reference and is not an inventor of the subject matter claimed in U.S. Patent Application No. 10/720,025.

16. I hereby declare that all statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true; these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under 18 United States Code §1001 and that such willful false statements may jeopardize the validity of the patent application or any patent issuing therefrom.

BY:

Vincent P. Conticello

Date

Robert A. McMillan

Date

Elizabeth R. Wright
Elizabeth R. Wright

1/14/2009

Date

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